

## **REMARKS**

Applicants are filing this Amendment and Response with a Request for Continued Examination (RCE) within the shortened statutory period. Consequently, Applicants believe that no fee is due other than the \$810 fee according to 37 C.F.R. 1.17(e) paid concurrent with this filing; however, if a fee is due please charge Deposit Account No. 230503.

In the Amendment and Response filed October 21, 2010, Applicants presented claims 1-5, 8 and 9 for examination and claims 6, 7 and 11-19 remained withdrawn. Applicants herein amend claims 1-5 and add new claims 20-24. Claims 8 and 9, and previously withdrawn claims 6, 7 and 11-19, are canceled herein. Claims 1-5 and 20-24 are pending in the application after entry of this paper.

### **Rejection of Claims 1-5, 8 and 9 under 35 U.S.C. §103(a)**

The Office Action rejects claims 1, 2 and 9 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,019,372 to Parkell et al. (hereinafter "Parkell") in view of either U.S. Patent No. 5,238,557 to Schneider et al. (hereinafter "Schneider") or U.S. Patent No. 4,966,695 to Joshua (hereinafter "Joshua").

Claim 9 is canceled in this paper therefore its rejection is rendered moot. Applicants respectfully traverse the rejection with respect to claims 1 and 2 as now set forth because the cited references, either alone or in combination, do not teach or suggest all of the claimed limitations of Applicants' invention.

Claim 1 is amended herein to more clearly recite Applicants' invention, including that the housing that holds a column is movable between various positions. Support for the amendment can be found at least at paragraphs [0023] to [0026], [0028] to [0030] and in FIGS. 1-3.

Previously, Applicants' claim 1 recited a positioning means for placing the outlet of the column in proximity to a detector. Applicants note that both the non-final rejection and the present final rejection failed to identify how Parkell discloses a positioning means as previously set forth in Applicants' claim 1. Applicants have amended claim 1 herein to more clearly recite that the positioning means of the claimed device is capable of moving the recited housing. More specifically, claim 1 now instead recites "a positioning mechanism coupled to the housing and adapted for attachment to a chromatography system component, the positioning mechanism configured to move the housing between a first position at which the column is proximate to the chromatography system component and a second position at which the outlet of the column is proximate to a detector" (emphasis added). Advantageously, the positioning mechanism successfully addresses the problem of placing a column secured in the housing closer to a detector to reduce the length of tubing between the column and detector and thereby limit band spreading. In addition, Applicants' invention as recited in claim 1 addresses the problem of changing temperature of the column or cartridge when so positioned which can lead to shifts in the detected peaks. (See page 2, lines 1-9 of Applicants' originally-filed specification.)

Parkell, which was discussed in the previous Response dated October 21, 2010 in more detail, discloses how to control the temperature of the effluent of a column. The control of the temperature is achieved after the effluent exits the column but before the effluent is detected by a flow cell. Parkell describes how the effluent is brought to thermal equilibrium with the

flow cell detector; however, there is no discussion or suggestion in the disclosure of Parkell regarding a housing that holds the column that is movable between different positions such that the outlet of the column can be repositioned to be near the flow cell detector. Thus Applicants respectfully submit that Parkell does not teach or suggest the limitation of claim 1 identified above.

On page 5, the Office Action addresses Applicants' remarks in the previous Response. In particular, the Office Action states that Parkell's connecting means 14 which connects the outlet of column 12 to the detector 20 is considered to be a positioning means. To the extent that the Examiner may consider the same remarks in light of claim 1 as amended herein, Applicants point out that there are no elements shown or described in the disclosure of Parkell between the outlet of column 12 and the detector 20 that are movable, and the column itself is not movable. Instead, the column is directly coupled to the flow cell in a permanent manner. Moreover, the language in claim 1 as amended herein recites that it is the housing that moves to bring the outlet of the column close to the detector and not any connecting means that exists between the column and the detector.

The Office Action relies on either Schneider or Joshua to show the use of a housing with a heater. Regardless of whether or not these references show use of a housing with a heater, neither Schneider nor Joshua teaches the positioning mechanism identified above as missing from the disclosure of Parkell.

At least for the reasons set forth above, Applicants respectfully submit that Parkell, Schneider and Joshua, either alone or in combination, do not teach or suggest all the limitations in claim 1. Thus Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. §103(a) be withdrawn. Claim 2 depends from claim 1 and therefore includes all the limitations of

claim 1. Thus Applicants respectfully request withdrawal of the rejection of claim 2 under 35 U.S.C. §103(a) at least for the reasons provided with respect to claim 1 above.

Claims 3-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Parkell in view of either Schneider or Joshua, and further in view of U.S. Patent No. 5,083,158 to Kashima et al. (hereinafter “Kashima”) and U.S. Patent No. 4,732,672 to Kiang et al. (hereinafter “Kiang”).

Claims 3-5 depend from allowable base claim 1 and include all of the limitations of claim 1. Consequently, claims 3-5 are allowable over the cited references for at least the reasons provided above in connection with claim 1. Thus Applicants respectfully request that this rejection of claims 3-5 be withdrawn.

Claims 4 and 5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Parkell in view of either Schneider or Joshua, Kashima and Kiang, as applied to claims 3-5 and further in view of U.S. Patent No. 4,484,061 to Zelinka et al.

Claims 4 and 5 depend from allowable base claim 1 and include all of the limitations of claim 1. Consequently, claims 4 and 5 are allowable over the cited references for at least the reasons provided above in connection with claim 1. Thus Applicants respectfully request that this rejection of claims 4 and 5 be withdrawn.

Claims 8 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Parkell in view of either Schneider or Joshua, as applied to claims 1, 2 and 9, and further in view of either U.S. Patent No. 6,036,855 to Shalon et al. or U.S. Patent No. 6,294,088 to Allington et al.

Claims 8 and 9 are canceled herein therefore their rejection is rendered moot.

To the extent that the references cited against the other claims in the present Office Action may be considered in light of new claims 20-24, Applicants point out that the new claims depend from allowable base claim 1 and include all of the limitations of claim 1. Thus Applicants submit that new claims 20-24 are allowable over the cited references for at least the reasons provided above in connection with claim 1.

### **CONCLUSION**

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims that have not been expressed.

In view of the remarks made herein, Applicants submit that the application is in condition for allowance and request early favorable action by the Examiner.

If the Examiner believes that a telephone conversation with the Applicants' representative would expedite allowance of this application, the Examiner is cordially invited to call the undersigned at (508) 303-2003.

Respectfully submitted,

Date: January **20**, 2011  
Reg. No. 41,047

Tel. No.: (508) 303-2003  
Fax No.: (508) 303-0005

/William G. Guerin/  
William G. Guerin  
Attorney for Applicants  
Guerin & Rodriguez, LLP  
5 Mount Royal Avenue  
Marlborough, MA 01752